

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7390

BILL NUMBER: HB 1486

NOTE PREPARED: May 4, 2011

BILL AMENDED: Feb 14, 2011

SUBJECT: Insurance Matters.

FIRST AUTHOR: Rep. Lehman

FIRST SPONSOR: Sen. Paul

BILL STATUS: Enrolled

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: This bill has the following provisions:

- (1) Makes various changes to the law concerning retention of an examiner by the Department of Insurance, annual audited financial reporting, insurance producer education and licensing, insurer investments, holding company system transactions, insurance administrator licensing fees, risk-based capital, credit for reinsurance with reduced collateral, requirements applying to certain domestic insurers and health maintenance organizations, small employer health insurance plans.
- (2) Adds a law providing for limited purpose subsidiary life insurance companies.
- (3) Adds a law providing for independent adjuster licensing.
- (4) Defines "industrial insured" for purposes of certain insurer transactions exempt from licensure requirements.
- (5) Adds a provision concerning treatment of certain agreements in the event of insurer rehabilitation.
- (6) Amends a provision concerning the conversion of a mutual insurance holding company into a stock company to replace a reference to the former statute on the demutualization of mutual insurance companies with a reference to the current statute on the demutualization of mutual insurance companies.
- (7) Defines "working capital" for purposes of the law regulating professional employer organizations (PEOs).
- (8) Amends the current law applying to PEOs with respect to registration and financial requirements and unemployment compensation status.
- (9) Repeals provisions concerning notice of insurance administrator claim recoding and concerning individual policies in the small employer group health insurance law.
- (10) Makes conforming amendments.

Effective Date: Upon passage; July 1, 2011.

Explanation of State Expenditures: *Retention of an Examiner.* The bill provides that the DOI is not required to follow certain requirements specified in the public purchasing law. The DOI works with auditing groups and certain situations require the DOI to work quickly in order to investigate financials of insurance companies. The provision will have no fiscal impact, but could enhance the responsiveness of the DOI.

Professional Employer Organizations (PEOs). This change will require a modification to the review form. The DOI should be able to cover administrative costs associated with this function.

Insurance Administrator Licensing Fees. The bill provides that a resident or nonresident must pay an application fee in an amount determined by the Commissioner in order to receive an administrator's license. A \$50 fee is already in place with 204 administrators registered. The bill would allow the DOI to increase the fee for the license in order to cover increases in administrative expenses. Fee revenue is deposited in the DOI Fund.

Independent Adjuster Licensing. The bill provides for the licensing of independent adjusters. The DOI Commissioner may adopt rules to implement the procedure for obtaining licenses. The Commissioner must establish standards and procedures. Rules adopted by the Commissioner may establish fees for temporary emergency licenses. Fees will be designed to cover administrative expenses incurred.

Independent Adjuster Licensing--Continuing Education. An individual who holds a license must, every two years, satisfactorily complete a minimum of 24 hours of continuing education courses and report the completion of the courses to the Commissioner. These administrative functions would be paid by fees associated with continuing education.

Independent Adjuster Licensing-- Examinations. An individual who applies for an independent adjuster license must pass a written examination that is developed and conducted according to rules adopted by the Commissioner. The Commissioner may contract with a nongovernmental entity to administer the written examination. An individual must remit with the application to take the written examination, a nonrefundable examination fee in an amount set by the Commissioner or the organization administering the examination. The fee would be designed to cover costs.

Nonresident Independent Adjuster License. The Commissioner must issue a nonresident independent adjuster license to qualified individuals who remit the nonresident application and fee. The Commissioner may verify an independent adjuster's licensure status in another state through the NAIC database or request certification of good standing. Fees should cover administrative costs.

Independent Adjuster Licensing--Hearings. If the Commissioner refuses an application for licensure or for the renewal of an existing license, the Commissioner must notify the applicant or licensee in writing, advising of the reason for the refusal. The applicant or licensee may make written demand upon the Commissioner for a hearing. The Commissioner may suspend, revoke, or refuse a business entity's independent adjuster license or place a business on probation if, after a hearing, the Commissioner makes certain findings. The impact of this provision will depend on the number and nature of hearings required.

Insurer Investments. The rule that will be promulgated will include application fees which should offset any additional administrative expenses resulting from the provisions of the bill.

Definitions. The bill defines "working capital" for purposes of the law regulating professional employer organizations. This change will require a modification to the review form. The DOI should be able to cover

expenses associated with this change.

Rules. The DOI Commissioner may adopt rules to implement the provisions of the bill. This requirement is within the DOI's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

The remainder of the bill codifies rules already in place, clarifies, or updates the code to conform to national standards. The bill also gives the DOI the ability to adjust fees to cover increases in expenses when necessary. Repealed cites are cites that are no longer applicable. There are no significant fiscal impacts in these provisions.

Conversion of a Mutual Insurance Holding Company. This provision is a technical change and will have no impact.

Explanation of State Revenues: *Insurance Administrator Licensing Fees.* The bill provides that the application fee is determined by the Commissioner. Any future changes to the fee are indeterminable. Revenue from the fee is deposited into the DOI Fund, which is used to finance the operations of the DOI.

Independent Adjuster Licensing. An initial fee of \$40 for in-state adjusters would provide for the two-year license. The license would also be subject to renewal fees or fees for re-issuances of licenses. The specific amount of revenue that the fee will generate is unknown.

Nonresident Independent Adjuster License. The initial fee will be \$90 with a renewal fee of \$40 and a re-issuance fee of \$80. The amount of revenue that would be generated by the fee is indeterminable. Fee revenue would be deposited in the DOI Fund.

Insurer Investments. The rule that will be promulgated will include application fees which should offset any increased expenses resulting from the provisions of the bill.

Limited Purpose Subsidiary Life Insurance Companies. The DOI will promulgate a rule setting forth additional guidance for the LPS application, requirements, and application fee. The application fee should offset any impact.

Definitions. This bill expands the definition of industrial insureds for the purposes of obtaining a certificate of authority. Currently, industrial insureds are not required to obtain a certificate of authority, but still remit 1.3% of gross insurance sales to the DOI. As proposed, the bill will require industrial insureds to remit 2.5% of all gross premiums and contracts procured by the insured (plus 10% of the amount due for the first month payment and an additional 1% amount due each additional month during which the amount due is unpaid) to the DOI as a condition of not requiring a certificate of authority from the DOI to sell insurance. This bill will increase revenue collected from amounts industrial insureds remit to the DOI.

For FY 2010, the DOI received approximately \$335,000 in insurance premium tax collections (at a tax rate of 1.3%) from 11 industrial insureds. If industrial insureds are required to remit 2.5% of all gross insurance premiums sold, the state will receive approximately \$644,000 per year. This will increase revenue the state receives from premium taxes paid by industrial insureds by \$309,000 per year. Revenue collected from insurance premiums paid by industrial insureds will be deposited in the General Fund.

Penalties. An independent adjuster is subject to penalties for certain actions. After a hearing, the

Commissioner may impose a civil penalty of at least \$50 and not more than \$10,000. Other violators of the provisions of the bill may be ordered to cease and desist, and the Commissioner may order the payment of a civil penalty of not more than \$25,000 for each violation. If the person knew or reasonably should have known that he or she was in violation, the penalty may not be more than \$50,000 for each violation. All civil penalties imposed and collected are deposited in the state General Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: DOI.

Local Agencies Affected:

Information Sources: Barb Lohman, Controller; Cindy Donovan, Chief Financial Examiner; Robyn Crosson, Legislative Liaison, DOI, 317-234-6293.

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